

Proposed technical correction:

**SECTION \_\_\_\_.(a)** G.S. 106-202.14 reads as rewritten:

**"§ 106-202.14. Creation of Board; membership; terms; chairman; quorum; board actions; compensation.**

(a) The North Carolina Plant Conservation Board is created within the Department of Agriculture and Consumer Services.

[(b) The Board shall consist of seven members who are residents of North Carolina, one of whom represents each of the following:

- (1) The North Carolina Botanical Garden of The University of North Carolina at Chapel Hill;
- (2) The botanical, scientific community in North Carolina;
- (3) The North Carolina Forest Service of the Department of Agriculture and Consumer Services;
- (4) A North Carolina citizens conservation organization;
- (5) The commercial plant production industry in North Carolina;
- (6) The Department of Agriculture and Consumer Services;
- (7) The North Carolina public at large.

The Governor shall appoint the first four members enumerated above; the Commissioner shall appoint the remaining three members.

(c) Initial appointments to the Board shall be made by October 1, 1979. Of the terms of initial appointees, the representatives of the North Carolina Botanical Garden of The University of North Carolina at Chapel Hill, the commercial plant production industry in North Carolina, and a North Carolina citizens conservation organization shall serve two-year terms; all other members shall serve four-year terms. All subsequent terms shall be for four-year terms.

(d) All members shall hold their offices until their successors are appointed and qualified. Any vacancy occurring in the membership of the Board prior to the expiration of the term shall be filled for the remainder of the unexpired term. The Commissioner may at any time remove any member from the Board for cause. Each appointment to fill a vacancy in the membership of the Board shall be of a person having the proper credentials for that vacancy and appointed by the proper appointing agency.

(e) The Board shall select its chairman from its own membership to serve for a term of two years. The chairman shall have a full vote. Any vacancy occurring in the chairmanship shall be filled by the Board for the remainder of the term. The Board may select other officers as it deems necessary.

(f) Any action of the Board shall require at least four concurring votes.]

⇒ (g) Members of the Board who are not State employees shall receive per diem, subsistence and travel allowances authorized by G.S. 138-5; members who are State employees shall receive the subsistence and travel allowances authorized by G.S. ~~138-6; and members who are also members of the General Assembly shall receive subsistence and travel allowances authorized by G.S. 120-3.1.138-6.~~ (1979, c. 964, s. 1; 1989, c. 727, s. 218(45); 1997-261, ss. 37, 38; 1997-443, s. 11A.119(a); 2011-145, s. 13.25(qq); 2013-155, s. 9.)

**SECTION \_\_\_\_.(b)** G.S. 159G-70 reads as rewritten:

**"§ 159G-70. State Water Infrastructure Authority created.**

(a) Authority Established. – The State Water Infrastructure Authority is created within the Department of Environmental Quality.

[(b) Membership. – The Authority consists of nine members as follows:

- (1) The Director of the Division of Water Infrastructure of the Department or the Director's designee who is familiar with the water infrastructure financing, regulatory, and technical assistance programs of the Department.
- (2) The Secretary of Commerce or the Secretary's designee who is familiar with the State programs that fund water or other infrastructure improvements for the purpose of promoting economic development.
- (3) The Director of the Local Government Commission or the Director's designee who is familiar with the functions of the Commission.
- (4) One member who is a professional engineer in the private sector and is familiar with the development of infrastructure necessary for wastewater systems, to be appointed by the Governor to a term that expires on July 1 of even-numbered years.
- (5) One member who is knowledgeable about, and has experience related to, direct federal funding programs for wastewater and public water systems, to be appointed by the Governor to a term that expires on July 1 of odd-numbered years.
- (6) One member who is knowledgeable about, and has experience related to, urban local government wastewater systems or public water systems, to be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on July 1 of even-numbered years.
- (7) One member who is knowledgeable about, and has experience related to, rural local government wastewater systems or public water systems, to be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on July 1 of odd-numbered years.
- (8) One member who either (i) is a county commissioner of a rural county or (ii) resides in a rural county and is knowledgeable about, and has experience related to, public health services, to be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on July 1 of even-numbered years.
- (9) One member who is familiar with wastewater, drinking water, and stormwater issues and related State funding sources, to be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on July 1 of odd-numbered years.

(c) **Terms.** – The members appointed by the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives shall serve two-year terms. The other members, who are ex officio members or designees of those members, shall serve until they are no longer in office or are replaced with another designee.

(d) **Chair.** – The Director of the Division of Water Infrastructure, or the Director's designee, shall serve as Chair of the Authority. The Chair must call the first meeting. The Chair shall serve as a nonvoting member, provided, however, that the Chair shall vote to break a tie.

(e) **Meetings.** – The Authority shall meet at least four times a year and may meet as often as needed. A majority of the members of the Authority constitutes a quorum for the transaction of business. The affirmative vote of a majority of the members present at a meeting of the Authority is required for action to be taken by the Authority.

(f) **Vacancies.** – A vacancy in the Authority or as Chair of the Authority resulting from the resignation of a member or otherwise is filled in the same manner in which the original

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appointment was made. The term of an appointment to fill a vacancy is for the balance of the unexpired term.]

⇒ (g) Compensation. – Each member of the Authority shall receive no salary as a result of serving on the Authority but shall receive per diem, subsistence, and travel expenses in accordance with the provisions of G.S. ~~120-3.1, 138-5, 138-5~~ and G.S. 138-6, as applicable." (2013-360, s. 14.21(b); 2013-363, s. 5.12; 2015-241, s. 14.30(u).)

**SECTION \_\_\_\_.**(c) G.S. 143B-135.240 reads as rewritten:

**"§ 143B-135.240. Clean Water Management Trust Fund: Board of Trustees established; membership qualifications; vacancies; meetings and meeting facilities.**

(a) Board of Trustees Established. – There is established the Clean Water Management Trust Fund Board of Trustees. The Clean Water Management Trust Fund Board of Trustees shall be administratively located within the Department of Natural and Cultural Resources.

[(b) Membership. – The Clean Water Management Trust Fund Board of Trustees shall be composed of nine members appointed to three-year terms as follows:

- (1) One member appointed by the Governor to a term that expires on July 1 of years that precede by one year those years that are evenly divisible by three.
- (2) One member appointed by the Governor to a term that expires on July 1 of years that follow by one year those years that are evenly divisible by three.
- (3) One member appointed by the Governor to a term that expires on July 1 of years that are evenly divisible by three.
- (4) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on July 1 of years that precede by one year those years that are evenly divisible by three.
- (5) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on July 1 of years that follow by one year those years that are evenly divisible by three.
- (6) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on July 1 of years that are evenly divisible by three.
- (7) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on July 1 of years that precede by one year those years that are evenly divisible by three.
- (8) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on July 1 of years that follow by one year those years that are evenly divisible by three.
- (9) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on July 1 of years that are evenly divisible by three.

(c) Qualifications. – The office of Trustee is declared to be an office that may be held concurrently with any other executive or appointive office, under the authority of Article VI, Section 9, of the North Carolina Constitution. When appointing members of the Authority, the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives shall give consideration to adequate representation from the various regions of

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the State and shall give consideration to the appointment of members who are knowledgeable in any of the following areas:

- (1) Acquisition and management of natural areas.
  - (2) Conservation and restoration of water quality.
  - (3) Wildlife and fisheries habitats and resources.
  - (4) Environmental management.
  - (5) Historic preservation.
- (d) Limitation on Length of Service. – No member of the Board of Trustees shall serve more than two consecutive three-year terms or a total of 10 years.
- (e) Chair. – The Governor shall appoint one member to serve as Chair of the Board of Trustees.
- (f) Vacancies. – An appointment to fill a vacancy on the Board of Trustees created by the resignation, removal, disability, or death of a member shall be for the balance of the unexpired term. Vacancies in appointments made by the General Assembly shall be filled as provided in G.S. 120-122.
- (g) Frequency of Meetings. – The Board of Trustees shall meet at least twice each year and may hold special meetings at the call of the Chair or a majority of the members.
- (h) Quorum. – A majority of the membership of the Board of Trustees constitutes a quorum for the transaction of business.]
- ⇒ (i) Per Diem and Expenses. – Each member of the Board of Trustees shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. ~~120-3.1, 138-5, 138-5~~ and G.S. 138-6, as applicable. Per diem, subsistence, and travel expenses of the Trustees shall be paid from the Fund." (1996, 2nd Ex. Sess., c. 18, s. 27.6(a); 1997-443, s. 11A.119(a); 2001-474, s. 10; 2003-340, s. 1.3; 2003-422, s. 1; 2006-178, s. 2; 2013-360, s. 14.3(e); 2014-100, s. 14.8(d); 2015-241, ss. 14.30(k1), (r1), (u).)

**SECTION \_\_.**(d) G.S. 143-394.15 reads as rewritten:

**"§ 143B-394.15. Commission established; purpose; membership; transaction of business.**

(a) Establishment. – There is established the Domestic Violence Commission. The Commission shall be located within the Department of Administration for organizational, budgetary, and administrative purposes.

[(b) Purpose. – The purpose of the Commission is to (i) assess statewide needs related to domestic violence, (ii) assure that necessary services, policies, and programs are provided to those in need, (iii) strengthen the existing domestic violence programs which have been established pursuant to G.S. 50B-9 and are funded through the Domestic Violence Center Fund, and (iv) recommend new domestic violence programs.

(c) Membership. – The Commission shall consist of 38 members, who reflect the geographic and cultural regions of the State, as follows:

- (1) Nine persons appointed by the Governor, one of whom is a clerk of superior court; one of whom is an academician who is knowledgeable about domestic violence trends and treatment; one of whom is a member of the medical community; one of whom is a United States Attorney for the State of North Carolina or that person's designee; one of whom is a member of the North Carolina Bar Association who has studied domestic violence issues; one of whom is a representative of a victims' service program eligible for funding by the Governor's Crime Commission or the North Carolina Council for Women; one of whom is a member of the North Carolina Coalition Against Domestic Violence; one of whom is a former victim of domestic violence; and one of whom is a member of the public at large.
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- (2) Nine persons appointed by the General Assembly, upon recommendation of the President Pro Tempore of the Senate, one of whom is a district court judge; one of whom is a district attorney or assistant district attorney; one of whom is a representative of the law enforcement community with specialized knowledge of domestic violence issues; one of whom is a county manager; one of whom is a representative of a community legal services agency who works with domestic violence victims; one of whom is a representative of the linguistic and cultural minority communities; one of whom is a representative of a victims' service program eligible for funding by the Governor's Crime Commission or the North Carolina Council for Women; and two of whom are members of the public at large.
  - (3) Nine persons appointed by the General Assembly, upon recommendation of the Speaker of the House of Representatives, one of whom is a magistrate; one of whom is a member of the business community; one of whom is a district court judge; one of whom is a representative of a victims' service program eligible for funding by the Governor's Crime Commission or the North Carolina Council for Women; one of whom is a representative of the law enforcement community with specialized knowledge of domestic violence issues; one of whom provides offender treatment and is approved by the North Carolina Council for Women; one of whom is a representative of the linguistic and cultural minority communities; and two of whom are members of the public at large.
  - (4) The following persons or their designees, ex officio:
    - a. The Governor.
    - b. The Lieutenant Governor.
    - c. The Attorney General.
    - d. The Secretary of Administration.
    - e. Repealed by Session Laws 2017-102, s. 24, effective July 12, 2017.
    - f. The Superintendent of Public Instruction.
    - g. The Secretary of Public Safety.
    - h. The Secretary of Health and Human Services.
    - i. The Director of the Office of State Human Resources.
    - j. The Chair of the North Carolina Council for Women.
    - k. The Dean of the School of Government at the University of North Carolina at Chapel Hill.
    - l. The Chairman of the Governor's Crime Commission.
- (d) Terms. – Members shall serve for two-year terms, with no prohibition against being reappointed, except initial appointments shall be for terms as follows:
- (1) The Governor shall initially appoint five members for terms of two years and four members for terms of three years.
  - (2) The President Pro Tempore of the Senate shall initially appoint five members for terms of two years and four members for terms of three years.
  - (3) The Speaker of the House of Representatives shall initially appoint five members for terms of two years and four members for terms of three years.
- Initial terms shall commence on September 1, 1999.
- (e) Chair. – The chair shall be appointed biennially by the Governor from among the membership of the Commission. The initial term shall commence on September 1, 1999.
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(f) Vacancies. – A vacancy on the Commission or as chair of the Commission resulting from the resignation of a member or otherwise shall be filled in the same manner in which the original appointment was made, and the term shall be for the balance of the unexpired term.]

→ (g) Compensation. – The Commission members shall receive no salary as a result of serving on the Commission but shall receive per diem, subsistence, and travel expenses in accordance with the provisions of G.S. ~~120-3.1, 138-5, 138-5~~ and G.S. 138-6, as applicable. When approved by the Commission, members may be reimbursed for subsistence and travel expenses in excess of the statutory amount."

[(h) Removal. – Members may be removed in accordance with G.S. 143B-13 as if that section applied to this Article.

(i) Meetings. – The chair shall convene the Commission. Meetings shall be held as often as necessary, but not less than four times a year.

(j) Quorum. – A majority of the members of the Commission shall constitute a quorum for the transaction of business. The affirmative vote of a majority of the members present at meetings of the Commission shall be necessary for action to be taken by the Commission.

(k) Office Space. – The Department of Administration shall provide office space in Raleigh for use as offices by the Domestic Violence Commission, and the Department of Administration shall receive no reimbursement from the Commission for the use of the property during the life of the Commission.

(l) Staffing. – The Secretary of the Department of Administration shall be responsible for staffing the Commission.] (1999-237, s. 24.2(b); 2001-424, s. 7.7; 2006-264, s. 29(o); 2009-342, s. 1; 2011-145, s. 19.1(g), (i); 2013-382, s. 9.1(c); 2015-9, s. 2.2; 2017-102, s. 24.)

**SECTION \_\_\_\_.**(e) G.S. 143B-407 reads as rewritten:

**"§ 143B-407. North Carolina State Commission of Indian Affairs – membership; term of office; chairman; compensation.**

[(a) The State Commission of Indian Affairs shall consist of two persons appointed by the General Assembly, the Secretary of Health and Human Services, the Assistant Secretary of Commerce in charge of the Division of Employment Security, the Secretary of Administration, the Secretary of Environmental Quality, the Commissioner of Labor or their designees and 21 representatives of the Indian community. These Indian members shall be selected by tribal or community consent from the Indian groups that are recognized by the State of North Carolina and are principally geographically located as follows: the Coharie of Sampson and Harnett Counties; the Eastern Band of Cherokees; the Haliwa Saponi of Halifax, Warren, and adjoining counties; the Lumbees of Robeson, Hoke and Scotland Counties; the Meherrin of Hertford County; the Waccamaw-Siouan from Columbus and Bladen Counties; the Sappony; the Occaneechi Band of the Saponi Nation of Alamance and Orange Counties, and the Native Americans located in Cumberland, Guilford, Johnston, Mecklenburg, Orange, and Wake Counties. The Coharie shall have two members; the Eastern Band of Cherokees, two; the Haliwa Saponi, two; the Lumbees, three; the Meherrin, one; the Waccamaw-Siouan, two; the Sappony, one; the Cumberland County Association for Indian People, two; the Guilford Native Americans, two; the Metrolina Native Americans, two; the Occaneechi Band of the Saponi Nation, one, the Triangle Native American Society, one. Of the two appointments made by the General Assembly, one shall be made upon the recommendation of the Speaker, and one shall be made upon recommendation of the President Pro Tempore of the Senate. Appointments by the General Assembly shall be made in accordance with G.S. 120-121 and vacancies shall be filled in accordance with G.S. 120-122.

(b) Members serving by virtue of their office within State government shall serve so long as they hold that office. Members representing Indian tribes and groups shall be elected by

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the tribe or group concerned and shall serve for three-year terms except that at the first election of Commission members by tribes and groups one member from each tribe or group shall be elected to a one-year term, one member from each tribe or group to a two-year term, and one member from the Lumbees to a three-year term. The initial appointment from the Indians of Person County shall expire on June 30, 1999. The initial appointment from the Triangle Native American Society shall expire June 30, 2003. The initial appointment of the Occaneechi Band of the Saponi Nation shall expire June 30, 2005. Thereafter, all Commission members will be elected to three-year terms. All members shall hold their offices until their successors are appointed and qualified. Vacancies occurring on the Commission shall be filled by the tribal council or governing body concerned. Any member appointed to fill a vacancy shall be appointed for the remainder of the term of the member causing the vacancy. The Governor shall appoint a chairman of the Commission from among the Indian members of the Commission, subject to ratification by the full Commission. The initial appointments by the General Assembly shall expire on June 30, 1983. Thereafter, successors shall serve for terms of two years.

In the event that a vacancy occurs among the membership representing Indian tribes and groups and the vacancy temporarily cannot be filled by the tribe or group for any reason, the Commission membership may designate a tribal or group member to serve on the Commission on an interim basis until the tribe or group is able to select a permanent member to fill the vacancy. The service of the interim member shall terminate immediately upon appointment by the tribe or group of a member to fill the vacancy in its membership.]

→ (c) Commission members who are seated by virtue of their office within the State government shall be compensated at the rate specified in G.S. 138-6. ~~Commission members who are members of the General Assembly shall be compensated at the rate specified in G.S. 120-3.1.~~ Indian members of the commission shall be compensated at the rate specified in G.S. 138-5." (1977, c. 771, s. 4; c. 849, s. 1; 1977, 2nd Sess., c. 1189; 1981, c. 47, s. 5; 1981 (Reg. Sess., 1982), c. 1191, ss. 74, 76; 1989, c. 727, s. 218(149); 1991, c. 467, s. 1; 1995, c. 490, s. 27; 1997-147, s. 2; 1997-293, s. 2; 1997-443, ss. 11A.118(a), 11A.119(a); 2001-318, s. 1; 2002-126, s. 19.1A(a); 2003-87, s. 2; 2009-39, s. 1; 2011-401, s. 3.20; 2015-241, s. 14.30(v).)

**SECTION \_\_\_\_ (f)** G.S. 143B-472.81 reads as rewritten:

**"§ 143B-472.81. North Carolina Board of Science, Technology, and Innovation; membership; organization; compensation; staff services.**

[(a) The North Carolina Board of Science, Technology, and Innovation consists of the Governor, the Secretary of Commerce, and 23 members appointed as follows: the Governor shall appoint one member from the University of North Carolina at Chapel Hill, one member from North Carolina State University at Raleigh, and two members from other components of the University of North Carolina, one of which shall be from a historically black college or university, all nominated by the President of the University of North Carolina; one member from Duke University, nominated by the President of Duke University; one member from a private college or university, other than Duke University, in North Carolina, nominated by the President of the Association of Private Colleges and Universities; one member of the North Carolina Community College System; one member representing K-12 public education; six members from private industry in North Carolina; and seven at-large members. Two members shall be appointed by the General Assembly, one shall be appointed upon the recommendation of the President Pro Tempore of the Senate, and one shall be appointed upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121. The nominating authority for any vacancy on the Board among members appointed

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by the Governor shall submit to the Governor two nominations for each position to be filled, and the persons so nominated shall represent different disciplines.

(b) Members appointed to the Board by the General Assembly shall serve for two-year terms beginning 1 July of odd-numbered years. Vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122. The two members from public agencies shall serve for terms expiring at the end of the term of the Governor appointing them. The other 13 members appointed to the Board by the Governor shall serve for four-year terms, and until their successors are appointed and qualified. Of those 13 members, six shall serve for terms that expire on 30 June of years that follow by one year those years that are evenly divisible by four, and seven shall serve for terms that expire on 30 June of years that follow by three years those years that are evenly divisible by four. Any appointment to fill a vacancy on the Board created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term.

(c) The Governor or the Governor's designee shall serve as chair of the Board. The vice-chair and the secretary of the Board shall be designated by the Governor or the Governor's designee from among the members of the Board.

(d) The Governor may remove any member of the Board from office in accordance with the provisions of G.S. 143B-16.]

→ (e) Members of the Board who are employees of State agencies or institutions shall receive subsistence and travel allowances authorized by G.S. 138-6. ~~Legislative members of the Board shall receive subsistence and travel allowances authorized by G.S. 120-3.1."~~

[(f) A majority of the Board constitutes a quorum for the transaction of business.

(g) The Secretary of Commerce shall provide all clerical and other services required by the Board.] (1979, c. 668, s. 1; 1981 (Reg. Sess., 1982), c. 1191, ss. 44-46; 1985, c. 757, s. 179(b), (c); 1989, c. 751, s. 8(17); 1991, c. 573, s. 1; 1995, c. 490, s. 46; 2001-424, s. 7.6; 2001-486, s. 2.21; 2014-18, s. 2.1.)

Background information:

**From:** Kory Goldsmith (Bill Drafting, Director)

**Sent:** Friday, April 13, 2018 11:09 AM

**To:** Floyd Lewis (Bill Drafting) <Floyd.Lewis@ncleg.net>; Bly Hall (Bill Drafting) <Bly.Hall@ncleg.net>; David Unwin (Bill Drafting) <David.Unwin@ncleg.net>

**Subject:** Another possible matter for GSC

Good morning – I don't know if this is something GSC would be interested in and it certainly isn't a pressing matter, but as a result of some work I had to do on boards and commissions, I've come across a dozen or more statutes dealing with appointments to boards and commissions that have one or more technical flaws.

The most common flaw has to do with an advisory board/commission that has appointments made by the General Assembly upon recommendation of the Speaker or PPT. Since these are advisory boards, the appointment can be made directly by the Speaker or PPT.

Another common flaw has to do with nonadvisory boards/commissions. Due to separation of powers, legislators are prohibited from sitting on these. However, there are multiple references to the per diem statute used for legislators (G.S. 120-3.1).

I can provide the research I've done to date.

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